



DEPARTMENT OF HUMAN RESOURCES

EMPLOYMENT SECURITY ADMINISTRATION

1100 NORTH EUTAW STREET
BALTIMORE, MARYLAND 21201

383-5032

- DECISION -

STATE OF MARYLAND

HARRY HUGHES
Governor

KALMAN R. HETTLEMAN
Secretary

BOARD OF APPEALS

THOMAS W. KEECH
Chairman

HAZEL A. WARNICK
MAURICE E. DILL
Associate Members

SEVERN E. LANIER
Appeals Counsel

DECISION NO.: 1495-BR-82

DATE: October 13, 1982

APPEAL NO.: 07476

S. S. NO.:

CLAIMANT: Deborah K. Montague

EMPLOYER: Baltimore City Schools

L. O NO.: 1

APPELLANT: CLAIMANT

ISSUE: Whether the Claimant was unemployed within the meaning of Section 20(1) of the Law.

NOTICE OF RIGHT OF APPEAL TO COURT

YOU MAY FILE AN APPEAL FROM THIS DECISION IN ACCORDANCE WITH THE LAWS OF MARYLAND. THE APPEAL MAY BE TAKEN IN PERSON OR THROUGH AN ATTORNEY IN THE SUPERIOR COURT OF BALTIMORE CITY, OR THE CIRCUIT COURT OF THE COUNTY IN MARYLAND IN WHICH YOU RESIDE.

THE PERIOD FOR FILING AN APPEAL EXPIRES AT MIDNIGHT

November 12, 1982

- APPEARANCES -

FOR THE CLAIMANT:

FOR THE EMPLOYER:

REVIEW ON THE RECORD

Upon review of the record in this case, the Board of Appeals reverses the decision of the Appeals Referee in regard to the week ending August 22, 1981. The Board has not considered the evidence concerning the week ending July 4, 1981, since no appeal was filed concerning that week.

During the week ending August 22, 1981, the Claimant worked on one day for American Center and Sons. She earned \$55.00 for that one day of work.

The Claimant's weekly benefit amount was \$70.00 at the time.

CONCLUSIONS OF LAW

The Claimant was clearly eligible for partial benefits for the week in question.

The decision of the Appeals Referee is apparently based on the amount of wages received by the Claimant for the week ending August 22, 1981. This is an incorrect way of calculate eligibility. The correct calculation is done by determining which wages are due to the Claimant or have been paid to Claimant for services performed during the week in question. In this case, since only \$55.00 of the Claimant's paycheck was attributable to work during the week ending August 22, 1981, and since the Claimant's weekly benefit amount was \$70.00, the Claimant was clearly unemployed within the meaning of Section 20(1) of the Law.

Under Section 3(b)(3) of the Law, the Claimant is eligible for her weekly benefit amount minus that amount of the wages attributable to work in that week which is above \$10.00. Since the Claimant earned \$45.00 above the \$10.00 amount, \$45.00 should be subtracted from the Claimant's weekly benefit amount of \$70.00. The Claimant is thus eligible for \$25.00 for the week in question.

DECISION

The Claimant is eligible for \$25.00 for the week ending August 22, 1981.

The decision of the Appeals Referee is reversed.

Thomas W. Keech

Chairman

Mawise E. Hill

Associate Member

K:D
ZVS

COPIES MAILED TO:

CLAIMANT

EMPLOYER

American Center & Sons

UNEMPLOYMENT INSURANCE - BALTIMORE



DEPARTMENT OF HUMAN RESOURCES
 EMPLOYMENT SECURITY ADMINISTRATION
 1100 NORTH EUTAW STREET
 BALTIMORE, MARYLAND 21201
 383 - 5040

BOARD OF APPEALS

STATE OF MARYLAND
 HARRY HUGHES
 Governor
 KALMAN R. HETTLEMAN
 Secretary

THOMAS W. KEAD
 Chairman

HAZEL A. WARREN
 MAURICE E. DILL
 Associate Members

SEVERN E. LANIER
 Appeals Counsel

MARK R. WOLF
 Administrative Hearings Exam

- DECISION -

CLAIMANT: Deborah K. Montaque

DATE: 8/2/82

APPEAL NO.: 07476

S. S. NO.:

EMPLOYER: Baltimore City School

L. O. NO.: 1

APPELLANT: Claimant

ISSUE: Whether the claimant was unemployed within the meaning of Section 20(1) of the Law.

NOTICE OF RIGHT OF FURTHER APPEAL

ANY INTERESTED PARTY TO THIS DECISION MAY REQUEST A FURTHER APPEAL AND SUCH APPEAL MAY BE FILED IN ANY EMPLOYMENT SECURITY OFFICE, OR WITH THE APPEALS DIVISION, **ROOM 515**, 1100 NORTH EUTAW STREET, BALTIMORE, MARYLAND 21201, EITHER IN PERSON OR BY MAIL.

THE PERIOD FOR FILING A FURTHER APPEAL EXPIRES AT MIDNIGHT ON

August 17, 1982

- APPEARANCES -

FOR THE CLAIMANT:

Claimant-Present

FOR THE EMPLOYER:

Raymond Banks
 Sr., Staff Specialist
 Charles Spinner,

FINDINGS OF FACT

The claimant filed a claim for unemployment insurance benefits, effective June 21, 1981. Her weekly benefit amount was determined to be \$70.

The claimant filed a claim for benefits for the claim week ending July 4, 1981. Her employer, Baltimore City Schools, reported earnings in the amount of \$240. The claimant's last pay stub was dated June 23, 1981. The case was continued, so that

the employer could. present additional evidence, if she worked during the week in question. They did not appear or present such evidence. The claimant denied that she worked for the claim week ending July 4, 1981, for Baltimore City Schools.

The claimant received \$70 from the Agency for the claim week ending July 4, 1981, and she was charged an overpayment for this.

During the claim week ending August 22, 1981, the claimant's employer originally reported \$170 as earnings. The claimant worked at the baseball games, when the Orioles were playing in Baltimore. She presented two pay stubs for the period ending August 14 1981, in the amount of \$170 and for the period ending August 21, 1981, The pay period ends on Thursday, these stubs amounted to \$220.

The claimant alleged that she did not work during the claim week ending August 22, 1981, however, she was granted a continuance to get her pay stubs. She presented them but she did not present any other evidence from the employer, that she was not employed during this period. She contended that she was paid a week late.

The claimant received \$70 from the Agency for the claim week ending August 22, 1981.

CONCLUSIONS OF LAW

It is found that the claimant was eligible for benefits and not employed for the claim week ending July 4, 1981. The overpayment of \$70 charged against the claimant must be cancelled.

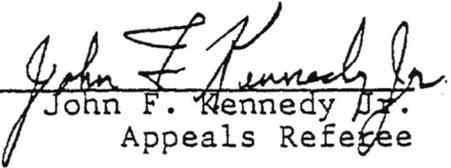
However, it is found that the claimant worked and received wages in excess of her weekly benefit amount of \$70 for the claim week ending August 22, 1981. Therefore, the \$70 that she received must be repaid to the Agency.

DECISION

The claimant was not employed during the claim week ending July 4, 1981, the overpayment of \$70 is cancelled.

The claimant was not eligible for benefits within the meaning of Section 4 and 20(1) for the claim week ending August 22, 1981, she is overpaid \$70 for this week.

The claimant's total overpayment is now \$.70, not \$140 the determination of the Claims Examiner is modified accordingly.


John F. Kennedy Jr.
Appeals Referee

Date of Hearing: 7/2/82

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Copies mailed to:

Claimant
Employer
Unemployment Insurance - Baltimore

American Center and Sons Inc.